

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DONOVAN FITE, : Case No. 1:12-cv-877
: :
Petitioner, : Judge Timothy S. Black
: vs. : Magistrate Judge Stephanie K. Bowman
: :
WARDEN, Ross Correctional Institution, :
: :
Respondent. : :

**DECISION AND ENTRY ADOPTING THE REPORT AND
RECOMMENDATIONS OF THE UNITED STATES MAGISTRATE JUDGE
(Doc. 9)**

This case is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge Stephanie K. Bowman. Pursuant to such reference, the Magistrate Judge reviewed the pleadings filed with this Court and, on December 6, 2013, submitted a Report and Recommendations. (Doc. 9). No objections were filed.

As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Report and Recommendations should be and is hereby adopted in its entirety. Accordingly:

1. The Report and Recommendations (Doc. 9) is **ADOPTED**;
2. The Petition is administratively **STAYED** and **TERMINATED** on the Court's active docket pending Petitioner's exhaustion of his Ohio remedies. The stay is conditioned on Petitioner's filing a motion to reinstate the case

on this Court's active docket within 30 days after fully exhausting his state court remedies through the requisite levels of state appellate review. Petitioner shall be granted leave to reinstate the case on the Court's active docket when he has exhausted his Ohio remedies based on a showing that he has complied with the conditions of the stay. Judgment shall be withheld until Petitioner moves the Court to reinstate the case after having had the opportunity to exhaust his state court remedies;

3. A certificate of appealability under 28 U.S.C. § 2253 is **DENIED**; and
4. An application to proceed on appeal *in forma pauperis* under 28 U.S.C. Section 1915(a)(3) is **DENIED**.

IT IS SO ORDERED.

Date: 12/30/13

Timothy S. Black
Timothy S. Black
United States District Judge